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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,700	09/28/2001	Steven G. Smith	20009.0248US01(01189)	6438
45695 7590 01/04/2008 WITHERS & KEYS FOR BELL SOUTH P. O. BOX 71355 MARIETTA, GA 30007-1355			EXAMINER NGUYEN, STEVEN H D	
			ART UNIT 2619	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/966,700

Applicant(s)

SMITH ET AL.

Examiner

Steven H.D Nguyen

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 8-9 rejected under 35 U.S.C. 102(e) as being McDowell by (US 20020035605).

As claim 8, McDowell discloses a method of receiving data sent from a first computing device (Fig 2, Ref 210) to a plurality of second computing devices (Fig 7, Ref 731 and 733) over a wireless digital packet switched network (Fig 7, Ref 712) comprising at a protocol server (Fig 2, Ref 136 for receiving IM message from Ref 210, Pages 7-8, Sec 90-98), receiving data from a messaging application (WAP IM) running on a computing device over wireless digital packet switched network, while maintaining contact with a remote system accessing application (WAP browser) running on the computing device via the wireless digital packet switched network (Page 3, Sec, 44, the subscriber retrieves information from private database; Page 7-9, Sec 83-98, Page 10, Sec 106); forwarding the data from the messaging application to a messaging server via the protocol server (Fig 2, Ref 210, 136, IM server); determining intended recipients of the data at the messaging server and forwarding the data from the messaging directly to the intended recipients without transmitting the data through the protocol server (Figs 1 and 7-8, Pages 7-8, the IM message is forwarded to the intended recipients (Fig 7-8, Ref subscriber,) via internet,

Sec 90-98 or from 704 via internet 700 to 714, Fig 7, See Page 7, Sec 91, IM server allows the wireless users to send/receive an instant messages with wireline users, multipoint to multipoint).

Regarding claim 9, McDowell discloses at the protocol server (fig 2, Ref 136) receiving a request for legacy data from the remote system accessing application via the wireless digital packet switched network (fig 2, Ref 201-207) and forwarding the request to a remote system (Fig 2, Ref 119 or Fig 7, Ref 741); (Page 3, Sec, 44, the subscriber retrieves information from private database; Page 7-9, Sec 83-98, Page 10, Sec 106)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-2, 4-6, 8-9, and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Abu-Samaha (USP 7260536) in view of Chandra (USP 71300885).

As claims 1, 8-9 and 11, Abu-Samaha discloses a method of sending data from a first computing device (Fig 1, Ref 36) to at least one of a plurality of second computing devices (Fig 3, Ref 88) over a wireless digital packet-switched network (Fig 1, Ref 26), wherein initiating a first application on the first computing device accessing and retrieving legacy data from a remote system (Fig 1, Ref 33 for storing information to be pull or pushed by user/server such as email, fax wherein application is initiated by user to retrieve data) within a private network (Fig 1, Ref 32), via a protocol server (Fig 1, Ref 44); initiating a second application providing an instant messaging service (Fig 1, Ref 36 initiates instant message application for sending/receiving instant message to a second device via IM server) on the first computing device for enabling instant messaging data to be sent from the first computing device to a instant messaging server (Fig 1, Ref 33, instant messaging and chat services) within the private network (Fig 1, Ref 32) via the protocol server (Fig 1, Ref 44) over the wireless digital packet-switched network (Fig 1, Ref 26); generating data to be sent from the first computing device to the at least one of the plurality of second computing devices within the private network, wherein data is generatable from the first application as a request to the remote system via the protocol sever and generatable from the second application as an instant message to transmit to instant message server which directly forwards the at least one of the plurality of second computing devices, both the data and the instant message being transmitted by way of the wireless digital packet- switched network (Col 4, lines 12-37). However, Abu-Samaha fails to disclose initiating a first communication through a communication layer by the first application using a first application program interface (API) call for contacting the remote server; initiating a second communication through the communication layer by the second application using a second API call for sending instant

messaging to an instant message server which directly forward it the at least one of the plurality of second computing devices. In the same field of endeavor, Chandra discloses a method and system for allowing wireless client to communicate with wire-line client using instant message, email via gateway (Fig 2A, Ref 226, Fig 2, Ref 2008, see col. 8, lines 42-65) and mail server (Fig 2B, Ref 254) which directly forwards the email or instant messages to at least one of the clients within a group from the (email or exchange server, col. 18, lines 43-65) and download the information such as legacy data from server (Fig 256) via gateway (Fig 2A, Ref 226; See col. 16, lines 1-35 and col. 19, lines 19-21). However, Chandra and Abu-Samaha fail to disclose a wireless device using a modem to establish a connection for conveying data. In the same field of endeavor, Doss discloses a method and system comprising a plurality of client devices (Fig 2, Ref 10), plurality of application servers (Fig 2, Ref 47-48) and protocol server (Fig 2, Ref 46) for coupling between network (Fig 2, Ref 49) and wireless packet network (Fig 2, Ref 42); the client and access point include a modem for establishing a wireless connection between the client and access point (Pages 3-4, [0031], [0035] and [0037]) wherein the protocol server (Fig 2, Ref 46) transmitting the generated data including the request to the legacy system and the instant message via an X.25 protocol (Page 3, [0035]).

Since, a method and system for using the modems to establish a wireless connection between a client and access point and internet can be a LAN are well known and expected in the art and Chandra and Abu-Samaha suggest a method and system can be integrated with a wireless network by using modem. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to apply a modem into a device to be use for establishing a wireless connection between the client and access point using x.25 protocol as disclosed by Doss

into a method and system for using a wireless gateway for allowing a wireless client to communicate with a wire-line clients using instant messages via gateway and exchange server and downloading legacy data from a server and gateway as disclosed by Chandra into the teaching of Abu-Samaha. The motivation would have been to save time, reduce cost.

As claim 2, Chandra discloses the first application can access the remote systems (Fig 2).

As claim 4, Abu-Samaha and Chandra implicitly discloses the instant message is addressed to a user represented by a user identifier (Chandra, col. 18, lines 43-65 and Abu-Samaha, col. 2, lines 37-40).

As claim 5, Abu-Samaha and Chandra fail to disclose user identifier comprises one of a group of allowed recipients the method further comprising detecting at the instant messaging server whether the user identifier is of the group of allowed recipients, and delivering the message to the recipient only when the user identifier is of the allowed group. However, the examiner takes an official notices that a method and system for detecting at the instant messaging server whether the user identifier is of the group of allowed recipients, and delivering the message to the recipient only when the user identifier is of the allowed group is well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to detect the clients that belong to the group of clients that allows to receive the instant message into a method and system of McDowell and Doss in order to prevent the instant message server to delivery an instant message to a correct receiver and provide a security.

As claim 6, Abu-Samaha and Chandra implicitly discloses establishing an interactive connection between the devices (Chandra, col. 18, lines 43-65 and Abu-Samaha, col. 2, lines 37-40).

6. Claims 7-10 and 12-13 rejected under 35 U.S.C. 103(a) as being unpatentable over McDowell (US 20020035605) in view of Doss (US 20020188620)/Parsons (US 20020085701).

As claims 7-10 and 12-13, McDowell discloses a method and system of sending data from a first computing device (Fig 2, Ref 210) to at least one of a plurality of second computing devices (Fig 7, Subscriber) over a wireless network (Fig 2, Ref 201 and 207) comprising initiating a first application (Web Browser, WAP browser, Page 7, 83 or page 10, 106) on a first computing device (Fig 2, Ref 210) including a wireless interface the first application for accessing and retrieving legacy data from a remote system (Fig 2, Ref 220, 119 or Fig 7, Ref 741) via a protocol server (Fig 2, Ref 136); initiating a second application on the first computing device (Pages 7-8, Sec 90-98, IM application), the second application providing an instant messaging service and enabling instant messaging data to be sent from the first computing device (Fig 2, Ref 210) to an instant messaging server (Fig 1, Ref 116) via the protocol server (Fig 2, Ref 136) over a wireless network (Fig 2, Ref 201-207); generating data to be sent from the first computing device to the at least one of the plurality of second computing devices (Pages 7-8, Sec 90-98 and Web Browser, Page 7, 83 or page 10, 106), wherein data is generated from the first application (3, Sec 44, Page 7, Sec 83 or page 10, Sec 106) as a request from the protocol server (Fig 2, Ref 136) to the remote system (Fig 2, Ref 220, 119 or Fig 7, Ref 741) and from the second application (Pages 7-8, Sec 90-98, WAP IM) as an instant message from the protocol server (Fig 2, ref 136) to the instant message server (Fig 1, Ref 116) and is transmitted by way of

the wireless device (Fig 2, Ref 210); and transmitting the generated data from the first computing device to the protocol server for delivery of the request to the legacy system (Web Browser, Page 3, Sec 44, Page 7, Sec 83 or page 10, Sec 106) and for delivery of the instant message to the instant messaging server for delivering the message to the second device (Pages 7-8, Sec 90-98) wherein the instant message is delivered to the instant messaging server for further delivery to the at least one of the plurality of second computing devices without transmitting the instant message through the protocol server (Figs 1 and 7-8, Pages 7-8, the IM message is forwarded to the intended recipient (Fig 7-8, Ref subscriber) via internet, Sec 90-98 or from 704 via internet 700 to 714, Fig 7). However, McDowell fails to disclose the instant message can be distributed via LAN such private network and a wireless modem at the client device and access point device in order to initiate a request to a modem controller for access to the wireless digital packet switched modem. In the same field of endeavor, Parsons discloses an office which include LAN which has a plurality of clients for exchanging instant message with a wireless device (See Fig, 1, Lan 108, wireless device 118 using WAP and wireline device 110). However, McDowell and Parsons do not discloses a wireless modem at the client device and access point device in order to initiate a request to a modem controller for access to the wireless digital packet switched modem . In the same field of endeavor, Doss discloses a method and system comprising a plurality of client devices (Fig 2, Ref 10), plurality of application servers (Fig 2, Ref 47-48) and protocol server (Fig 2, Ref 46) for coupling between network (Fig 2, Ref 49) and wireless packet network (Fig 2, Ref 42); the client and access point include a modem for establishing a wireless connection between the client and access point (Pages 3-4, [0031], [0035] and [0037]) wherein

the protocol server (Fig 2, Ref 46) transmitting the generated data including the request to the legacy system and the instant message via an X.25 protocol (Page 3, [0035]).

Since, a method and system for using the modems to establish a wireless connection between a client and access point and internet can be a LAN are well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to apply a modem into a device to be use for establishing a wireless connection between the client and access point using x.25 protocol as disclosed by Doss into the method and system of Parsons; then apply these teaching into McDonnell. The motivation would have been to expand the intranet.

Response to Arguments

7. Applicant's arguments filed 10/20/07 have been fully considered but they are not persuasive.
8. In response to pages 6-10, the applicant states McDowell does not disclose IM server that forwarding a message to the destinations and two application runs on wireless device for accessing remote system and IM server. In reply, McDowell discloses at Page 7, Sec 91, an IM server will delivery an instant messaging from wireless users to wireline users (multipoint to multipoint) and a wireless device includes the WAP applicants (See Page 4, Sec 50) such as WAP IM client application (Page 5, Sec 59 etc...) and WAP browser application (Page 7, 83 etc...) wherein WAP is a wireless application protocol which supports HTML and XML, used to create the applications in the wireless device such as WAP IM client application, WAP browser application, WAP email application, WAP telnet application, wherein WAP IM client

application used to exchange message with internet IM users with protocol server by using WAP IM client application (Page 8, Sec 92) and using WAP browser application for accessing the server (Page 10, Sec 106). So, McDowell clearly discloses WAP IM client application and WAP browser application, which are executed on the wireless device and Parsons discloses a LAN which comprising a plurality of computer for receiving instant message.

9. In response to pages 10-13, the applicant states McDowell does not discloses a method and system for using two applications for communication with a network such as first application for retrieving data and second application for communicating with another device via message server. In reply, McDowell discloses a wireless device includes the WAP applicants (See Page 4, Sec 50) such as WAP IM client application (Page 5, Sec 59 etc...) and WAP browser application (Page 7, 83 etc...) wherein WAP is a wireless application protocol which supports HTML and XML, used to create the applications in the wireless device such as WAP IM client application, WAP browser application, WAP email application, WAP telnet application, wherein WAP IM client application used to exchange message with internet IM users with protocol server by using WAP IM client application (Page 8, Sec 92) and using WAP browser application for accessing the server (Page 10, Sec 106). So, McDowell clearly discloses WAP IM client application and WAP browser application, which are executed on the wireless device and Parsons discloses a LAN which comprising a plurality of computer for receiving instant message as stated in claims 7 and 10.

10. In response to page 12, the applicant requests the prior arts to support the rejection of official notice. In reply, the examiner already submits the prior arts on the office action which mailed 12/15/2006.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven H.D Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jayanti Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to be 'Steven H.D. Nguyen', with a long horizontal stroke extending to the right.

Steven H.D Nguyen
Primary Examiner
Art Unit 2619